

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**SB 1589 – HB 2000**

April 23, 2010

**SUMMARY OF AMENDMENTS (017700, 017778, 017780):** Deletes all language after the enacting clause. Entitles a creditor to a deficiency judgment in an amount sufficient to satisfy fully the indebtedness in an action brought by a creditor to recover a balance still owing on an indebtedness after a trustee's or foreclosure sale of real property secured by a deed of trust or mortgage. The deficiency judgment shall be for the total amount of indebtedness prior to the sale plus the costs of the foreclosure and sale, less the fair market value of the property at the time of the sale.

Entitles the creditor to a rebuttable prima facie presumption that the sale price of the property is equal to the fair market value of the property at the time of the sale. To overcome this presumption, the debtor must prove by a preponderance of the evidence that the property sold for an amount materially less than the fair market value of property at the time of the foreclosure sale. Requires any action for a deficiency judgment to be brought not later than the earlier of two years after the date of trustee's or foreclosure sale, exclusive of any period of time in which a petition for bankruptcy is pending or the time for enforcing the indebtedness as provided under Tenn. Code Ann. §§ 28-1-102 and 28-2-111. Applies to all trustee or foreclosure sales of real property secured by a deed of trust for which the first foreclosure publication is given on or after September 1, 2010.

**FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Expenditures – Not Significant

Increase Local Expenditures – Not Significant

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

**Unchanged from the original fiscal note.**

Assumption applied to amendments:

- Any cost can be accommodated within existing state and local resources without an increased appropriation or reduced reversion.

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/lsc